

Approved as amended
PLANNING COMMISSION MINUTES
March 15, 2023

6:00 PM – Planning Commission Meeting
7:00 PM - Planning Commission Public Workshop for
Zoning Ordinance Update

Jamestown Town Hall
93 Narragansett Ave.

I. Call to Order and Roll Call

The meeting was called to order at 6:00pm and the following members were present:

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Mick Cochran	Rosemary Enright - Secretary
Diane Harrison	Bernie Pfeiffer
Dana Prestigiacomo	

Also present:

Lisa Bryer, AICP – Town Planner
Carrie Kolb – Planning Assistant
Wyatt Brochu, Esq. – Ruggiero, Brochu & Petrarca
Enrico DeGregorio – DiGregorio Corporation
Sam Crisafulli - DeGregorio – DiGregorio Corporation
Anthony DeGregorio – DiGregorio Corporation
Christian Infantolino, Esq. – Murphy, Prior & Infantolino
Robert Bailey – Lila Delman Compass
Alma Davenport
Robert Minutti
Bob Plain

II. Citizen’s Non-Agenda Item - none

III. Correspondence

1. **Memo to Zoning Board of Review - Our Table –53 Narragansett Ave., Plat 9 Lot 207, Jamestown Village Special Development district, Jamestown Zoning Ordinance Article 11, Amendment to the 2021 Development Plan -Discussion, Review and Approval and**

Recommendation to Zoning Board on Special Use Permit for liquor (outdoor seating) and Variance for Parking (reduced due to proposed outdoor seating).

Correspondence recognized as received.

IV. Reports

- Planner's Report
 - Future meetings – topics and applications

V. New Business

1. **Gail and John Redmond, 148 Narragansett Avenue, Plat 8 Lot 76, Jamestown, RI – Development Plan Review for construction of a detached garage in Jamestown Village Special Development District per Jamestown Zoning Ordinance Article 11 Section 82-1100 – Review, Discussion, and/or Action and/or Vote.**

Commissioner Swistak recused himself for the application and Commissioner Pendlebury assumed chair for the application.

Christian Infantolino, Esq represented the applicants. The Development Plan Review application is for an undersized corner lot located in an R-20 zone within the Jamestown Village Special Development District. The proposed plans are to construct a one-car garage. The location of the structure is proposed to be where the previous garage was and it was taken down 10 years ago. There are still cobblestone and pavers from the previous garage that the propose structure will utilize. The proposed garage is consistent in size and location with other garages are in the neighborhood.

The variances requested are:

2 feet on Lawn Avenue where 35 feet is required, as a secondary front
4 feet off Northern Property Line where 10 feet is required, as a side property line.

The three reasons for the location of the garage:

1. Applicants are trying to preserve a 50-foot Norway maple tree. A letter from arborist, Aaron Lavoie, recommends keeping the structure far enough away from the tree roots and the use of Sonotubes to reduce the amount of soil disturbance;
2. The proposed structure is similar to the structure that was there in the past, and it is consistent with other garages in the area;
3. Constructing the proposed garage where the previous garage was allows the applicants to utilize the existing brick and cobblestone.

Infantolino advised the Planning Commission that Bob Bailey was present at the meeting in the capacity of a real estate expert if there are any questions for Zoning.

Commissioner Pfeiffer was the TRC representative for the application. He stated that the amount of space available and locations for structure were discussed. The TRC voted to approve

the Development Plan review. The TRC also stated that they did not have any objections to the variance request.

Discussion ensued about the variances requested. Commissioner Pendlebury cited previous Zoning Board rulings and asked/stated:

1. Could the structure move to the East to reduce the 33-feet of relief requested?
2. Two-foot setback is a struggle.

Infantolio replied that the primary house is 3-feet off the property line. The applicant is trying to utilize the existing driveway. The applicant is not moving the structure eastward due to the tree root system and dripline of the large 50-foot Norway maple tree in the yard. The garage will utilize Sonotubes to help preserve the tree.

Commissioner Cochran asked if the garage could be built 6-feet south to make it more in compliance with setbacks?

Infantolino said again that the location of the proposed garage is where the previous structure was and that the applicants are trying to stay as far away from the root system of the tree as possible.

Discussion of the Norway maple tree ensued. Commissioner Enright asked if the applicant knew Norway maple are an invasive species in Rhode Island? Infantolino said that there has been a lot of talk of saving the tree and he is not an expert on trees. Commissioner Prestigiacomo noted that the applicants may have to make a choice.

Discussion of existing conditions ensued. Commissioner Pendlebury said that the fact that was a garage on the property in the past does not make it an existing condition.

Discussion regarding the fence ensued. Commissioner Harrison asked if the fence went to the end of the property line? Bailey said that the fence itself is 42-feet and it will be altered to build the garage.

Discussion on lot coverage and lot size ensued. Infantolino stated that the applicant is under the lot coverage. The lot is an undersized lot.

A motion was moved by Commissioner Pfeiffer and seconded by Commissioner Cochran as follows:

To approve the Development Plan for the construction of a detached garage in Jamestown Village Special Development District per Jamestown Zoning Ordinance Article 11 Section 82-1100.

The motion to approve **failed** in a 1-5 vote. The Planning Commission requests that the applicant come back with a request for **less relief**. The motion to approve, which failed, is as follows and was based on the following findings of fact, and subject to the following conditions of approval:

Findings of Fact:

1. This application proposes to construct a one-car detached garage;
2. The application is seeking setback relief for a corner lot; secondary front (off Lawn Avenue) of 2 feet where 35 feet is required and side setback of 4 feet where 10 feet is required;
3. The Technical Review Committee (TRC) reviewed this application on March 14, 2023 and made a recommendation for approval of the development plan and did not object to the variances requested;
4. The applicant's representatives, Christian Infantolino, Esq, of Murphy, Prior and Infantolino and Robert Bailey of Lila Delman Compass were present at the Planning Commission meeting representing the application at the Planning Commission Meeting on March 15, 2023;
5. Aaron Lavoie of Stanley Tree Service, Inc., submitted a letter recommending that any proposed construction have the lowest impact as possible for the 50-foot Norway Maple tree located on the property;
6. Norway Maple is an invasive species;

Conditions of Approval:

1. The one-car garage shall be built according to the plans;
2. There is not future expansion of the garage.

So voted:

Commissioner Pendlebury – no

Commissioner Cochran – no

Commissioner Enright – no

Commissioner Harrison – no

Commissioner Pfeiffer – aye

Commissioner Prestigiacommo – no

Motion failed 1-5

Infantolino said that they will come back with an arborist, and the clients will go back to the drawing boards to have a successful application.

Commissioner Swistak asked if the applicant can or cannot go to the Zoning Board as the next step? Solicitor Brochu said that the application needs development plan approval and the applicant can appeal the Planning Board's decision to the Zoning Board if they wish.

- 2. 29 Narragansett Ave, AP 9 Lot 631, Jamestown, RI.– Development Plan Review for change to existing development plan. Addition of elevator shaft to the roof in the Jamestown Village Special Development District, CD Zoning District – Review, Discussion, and/or Action and/or Vote.**

Commissioner Swistak resumed position as Chair.

Enrico DiGregorio, DiGregorio Corporation, 23 Business Park Drive, Smithfield, RI, stated that the project at 29 Narragansett Avenue is proposing to add 4 generators on the roof and an elevator to the roof top to reach the mechanicals. The elevator shaft, as proposed, will have the

same stone work that is at the base of the building and will look like a chimney. The door from the elevator shaft will open to Narragansett Avenue, however it will not be visible. There is a flat area on the roof and the elevator shaft comes up to the flat spot. An architect and engineer created the plans. It is common to lose power in Jamestown and it's nice to have a generator as an added feature. DeGregorio stated that there will be four propane powered generators, one for each unit. There will also be air handlers and compressors on the roof. The elevator will be a shaft driven elevator.

Discussion of height and sightlines ensued. The height of the elevator shaft will be 8 feet above the flat roof of the building, which is between ridgelines. For safety reasons, there will be a 42-inch railing around the mechanicals and the railing will not be visible due to the ridgelines and that it is set back from the edge.

Commissioner Swistak stated for the record that he and Commissioner Pfeiffer sat at the TRC meeting. They asked if there was another place for the mechanicals? If located on the ground level, the mechanicals would take up parking spaces. Air handlers (and mechanicals) on the roof are a better idea. Peter Medeiros, Jamestown Building Official, said at the meeting that an elevator to the roof is better than a hatch. An elevator on the roof is allowed by zoning and exempt in Jamestown from height restrictions; an example is at the golf course. The request is being reviewed since it is a change to the approved development plan.

Discussion of access ensued. The tenants and public will not have access to the roof. The elevators will be programmed so tenants cannot access the roof.

Discussion of maintenance and noise level ensued. The generators have to be cycled once a week. A condition of approval will be that they are cycled between Monday – Friday from 9am-5pm. The air handlers will have yearly maintenance and the generators will have twice a year maintenance. The generators will not be heard from the street due to the height of the roof. If they were located at ground level, the noise level would be similar to a lawn mower.

A motion was moved by Commissioner Swistak and seconded by Commissioner Cochran as follows:

At a meeting of the Jamestown Planning Commission on March 15, 2023, the application of 29 Narragansett Avenue, AP 9 Lot 631, Jamestown, RI for the addition of an elevator shaft rising 8 feet above the flat roof of the building, was reviewed and approved and the Planning Commission hereby grants an amendment to the approved Development Plan based on the following findings of fact and subject to the following conditions of approval:

Findings of fact:

1. The application for a new building was previously reviewed under the standards of Zoning Ordinance Article 11 as a new use and granted approval by the Planning Commission on

August 4, 2022;

2. This application was reviewed by the TRC on March 14, 2023 and the Planning Commission on March 15, 2023;
3. The use, an elevator penthouse, is permitted under Zoning Ordinance Section 305 as an exception to the height regulations since the penthouse structure meets the intent of this section in terms of its setbacks including the final height being under 50' (40' 3/8");
4. The applicant was representing by Enrico DeGregorio, DeGregorio Corporation;
5. The following information was provided for the current application:
 - 3 Elevation plans with mockup of elevator shaft
 - 7 Photographs
 - Roof plan dated revised 10-31-23 and amended to show the location of the elevator and safety fencing on the roof, handed out at the Planning Commission meeting on 3/15/23
6. The proposed improvements consist of:
Extending the elevator shaft from the second floor up to the roof for the purposes of adding four (4) generator and air handlers to the roof;
7. If generators were installed at ground level the project would lose two (2) parking spaces;
8. The generators and air handlers will be added to the flat roof area;
9. The elevator shaft will not have the hipped roof as shown;
10. The roof will be accessed only for maintenance purposes;
11. Safety railings are necessary for access on the roof;
12. The load capacity was approved by structural engineer engaged by DiGregorio Corp;

Conditions of Approval

1. The Mechanical equipment (generators and air handlers) shall be on the flat area of the roof;
2. The tenants, residents and general public shall not have access to the roof where the generators will be serviced approximately two times per year and the air handlers as needed;
3. The elevator shaft will be approximately 8 feet above the flat roof surface;
4. The elevator shaft shall be stone faced as shown on the plans;
5. The elevator shaft shall not have a hip roof, but be flat, resembling a stone chimney;
6. The overall height of the elevator shaft shall not exceed 40 feet 3/8 inch;
7. The safety railing will be no higher than 42 inches from the flat roof and shall not be seen from the ground level;
8. The testing (cycling) of the generators shall be between Monday-Friday from 9:00am-5:00pm;
9. Applicant must submit detailed plans to building inspector for approval of these improvements.

So voted:

Commissioner Pendlebury – aye

Commissioner Cochran – aye

Commissioner Enright – aye

Commissioner Harrison – aye

Commissioner Pfeiffer – aye

Commissioner Prestigiacomo – aye

Commissioner Swistak – aye

Motion carries 7-0

VI. Old Business

1. Public Workshop - Zoning Ordinance Update review, discussion and/or action and/or vote

A. Zoning Ordinance presentation from Jeff Davis of Horsley Witten

Bryer welcomes everyone to the workshop and explained that there are two nights for workshops. Bryer explained the process for the Zoning Ordinance Update: the Planning Commission drafts the Zoning Ordinance and holds Public Workshops. Then the Zoning Ordinance goes to the Town Council, and they Approve them. Then the Zoning Official enforces the Zoning Ordinances. It is one of the rare instances in Town where three bodies are involved in the process.

Bryer introduced Jeff Davis with Horsley Witten Group.

Davis presented:

- Brief timeline of Zoning Ordinance
- Tonight's discussion outline
- Description on how definitions were updated
- Examples of definitions that are additions to the Zoning Ordinance
- Table of Permitted Uses described and shown
- R40 and R80 Zoning District dimensions reviewed
- Article 7 – this is a new section on Misc. Structures including Accessory Structures and Lighting
- Article 8 – this is a new section on Special Regulations that combines 4 sections together
- Article 10 – this is a new section on Development Plan Review that took existing practices and put them all into one article for consistency
- Article 11 – Jamestown Village Special Development Overlay District has been revised significantly but the policy intention and outcome should remain the same
- Article 12 – this is a new section on Use Performance Standards, which are a use that requires a special condition.

B. Public Comment

Alma Davenport of 99 Clinton Avenue asked these questions:

1. Asked for clarification of what is considered commercial recreational facility and she gave the example of a tennis court. Davis explained using the tennis court example that: a recreational club with tennis court is a commercial recreational facility. A tennis court in a person's backyard is a private tennis court. A town-owned facility with a tennis court is a public tennis court.

2. Why is "dark sky" term not used for Jamestown, when talking about lighting? Davis explained that "dark sky" is trademarked.

3. In the Development Plan Review section, what is the difference between smaller and larger projects? Davis explained Article 10 Section 1004.

4. Questioned/cautioned the larger structures being built outside of town proper. Bryer replied that the Village District has availability of water and sewer.

5. There are lots of acronyms in the Zoning Ordinance and suggested that the last page be an acronym index.

6. Would the topics of B&B and parking regulations be discussed at the next workshop? Davis said yes, they can be discussed at the next meeting.

Bob Minutti, 31 Buloid Avenue questioned the consistency of the R40 and R80 and asked why it was done that way. Bryer answered that it is for non-conforming lots within those districts and gives more flexibility for the many non-conforming lots in that district.

Minutti said that it creates a slippery slope and Bryer stated that it is a good point of discussion.

Comments and questions from the Planning Commission:

Commissioner Harrison asked why in design guidelines that requirements have been moved to suggestions? She thinks that a lot of the design guidelines should be required. Davis said that the conversation was had a long time ago and the thought process then was more about guidelines than standards. Bryer said that there should be more discussion on this topic. Davis will prepare a memo on the topic of design guidelines.

Commissioner Pendlebury said that he would like that ground mounted solar panels are not allowed in front yards. There are issues of front yard versus back yard that need to be discussed.

Commissioner Pendlebury asked about people who keep fish ponds that are deep enough for children to drown in. Should there be a fence if the pond is 2-feet deep? Davis said that artificial/man-made bodies of water could have fence regulations.

A question was raised regarding storage units with advertising on the sides of them that are located on properties for more than 6 months? Davis said that you can not regulate on content neutrality. The topic of temporary signage i.e., large contractor signage, was brought up. Davis said that falls into content neutrality also. Bryer noted that we already regulate portable storage units.

VII. Approval of Minutes – review, discussion and/or action and/or vote

1. February 15, 2023

A motion was moved by Commissioner Swistak and seconded by Commissioner Cochran to approve the minutes from February 15, 2023 as amended. All in favor, Swistak abstained from voting.

Page 2: Paragraph 4: last sentence now reads: “The tenants who live in the apartments above...”

Page 2: Paragraph 6: “in the winter” was added after “Thursday-Sunday from 5pm-10pm”

Page 3: Paragraph 3: now reads “Discussion on ~~the~~ when the season would start ensued.

Romash stated that the earliest ~~#~~ outdoor seating could happen is ~~in~~ June...”

VIII. Adjournment

A motion to adjourn at 8:11pm was moved by Commissioner Prestigiacomo and seconded by Commissioner Harrison. All in favor.